

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Innovation in the Broadcast Television Bands:)	ET Docket No. 10-235
Allocations, Channel Sharing and Improvements)	
to VHF)	

REPLY COMMENTS OF RADIOSHACK CORPORATION

RadioShack Corporation (“RadioShack”) respectfully submits these Reply Comments in response to the portion of the Commission’s Notice of Proposed Rulemaking seeking comment on performance standards for indoor television antennas.¹ RadioShack files these Reply Comments to highlight that the majority of commenters filing on this subject support RadioShack’s position that the Commission should not institute antenna performance standards. RadioShack reiterates that 1) the Commission should focus on a market-based approach, 2) does not have the authority to institute such standards, and 3) should instead of standard-setting, focus on consumer education efforts.

I. THE COMMISSION SHOULD ENDORSE A MARKET-BASED APPROACH TO ANTENNA PERFORMANCE.

RadioShack agrees with those commenters supporting a market-based, consumer-oriented approach, rather than a one-size-fits-all mandatory standard for indoor antenna performance. In particular, a number of commenters noted that many consumers live in markets

¹ Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF, *Notice of Proposed Rulemaking*, ET Docket No. 10-235, FCC 10-196 (rel. Nov. 30, 2010) (“*NPRM*”).

where there are no low-VHF over-the-air television broadcasters – meaning that mandatory antenna standards would force manufacturers to make and retailers to sell antennas that most antenna-users do not need for over-the-air television reception.²

Not only would mandatory standards require some consumers to pay for features they may not need, it would also stifle consumer choice – possibly preventing customers from getting features they *do* need. One commenter makes the wholly unsupported claim that mandatory antenna standards might somehow lead to greater innovation, although the commenter provides no explanation as to how or why this would be the case.³ Far more likely is the possibility that, by intervening in the market and mandating standards that do not comport with consumer needs, the Commission would risk stifling innovation and limiting consumer choice.⁴

While the harm to consumers of mandatory antenna standards are clear – potentially higher antenna prices for capabilities consumers do not want or need – the benefits are elusive. RadioShack agrees with commenters who indicated that rigid antenna standards would not

² See Comments of the National Association of Broadcasters and the Association for Maximum Service Television, 22, ET Docket No. 10-235 (March 18, 2010) (“NAB Comments”) (“In these all-UHF markets, an all-band antenna requirement would require consumers to absorb the costs of VHF capability when purchasing new antennas, even though they are not served by local VHF stations”); Comments of the Consumer Electronics Association, 16, ET Docket No. 10-235 (March 18, 2010) (“CEA Comments”) (“For example, many markets may only have UHF over-the-air TV broadcasters – meaning that a consumer would have no use for an antenna that receives VHF transmissions”); Comments of Hank Bovis, 5, ET Docket No. 10-235 (March 18, 2011) (noting that “approximately 75% of” full power television stations operating in the low-VHF band are in “small markets,” and that it “does not make sense...to saddle indoor antenna users in urban areas with the adverse consequences of rural station owners’ decisions.”)

³ Comments of Khanna & Guill, Inc. – Consulting Engineers, 4, ET Docket No. 10-235 (March 18, 2010) (“Such requirement [sic] may also stimulate the design and development of better anteenas.”)

⁴ See CEA Comments at 16 (“Government intervention and regulation of antenna performance will result in inefficiencies and unnecessary burdens on consumers and manufacturers that may undermine the actual performance needs for a particular circumstance.”)

actually improve reception for those customers that do rely on indoor antennas for over-the-air reception of low-VHF broadcasts. First, no matter what standard the Commission adopts, widely varying circumstances under which consumers use indoor antennas may ultimately limit the relevance of that standard.⁵ Second, antenna performance is only one aspect of reception, and mandatory antenna standards are no panacea for poor reception.⁶ Third, consumers' buying habits, not government intervention in the marketplace, will ultimately determine whether consumers would actually even utilize new antennas.⁷

Ultimately these points simply underscore the inherent risks associated with government intervention in a competitive market. Antenna manufacturers and retailers will naturally respond to evolving consumer demands as needed.⁸ If consumers demand antennas with superior low-VHF reception abilities, manufacturers and retailers will provide more antennas with those capabilities. The reality, however, is that consumers are making no such demand, not only

⁵ Comments of Metro TV, Inc., 6, ET Docket 10-235 (March 18, 2011) (“[t]here is no way to determine how any ‘VHF antenna of the future’ would perform under widely varying indoor receiving locations. Would such antenna perform successfully in a ground-level apartment of a thickly walled concrete and steel building in the heart of a densely populated city as compared with a second story bedroom of a typical wood frame home? The answer is that it would be highly unlikely. The idea of ‘verified’ performance for receiving antennas is ill-conceived.”)

⁶ NAB Comments at 22 (“Moreover, the noise problem significantly affecting VHF reception cannot be resolved by antenna standards.”)

⁷ Comments of Local Television Broadcasters, 27, ET Docket No. 10-235 (March 18, 2011) (“Second, even if antenna performance standards are adopted and the improvements result in better reception – far from a certainty – the benefits of these marginally improved antennas would not be realized for many years to come until consumers began to replace their existing receivers and/or antennas.”)

⁸ CEA Comments at 16 (“CEA maintains that as TV broadcasters shift to VHF spectrum, the market itself will provide an efficient solution to variability or poor performance of indoor antennas. Indeed, consumers will purchase those antennas to adequately receive a television station’s digital VHF signal.”)

because a substantial number of over-the-air viewers live in markets served only by UHF stations, but also because of the undesirable form factor of low-VHF antennas,⁹ and because some consumers may prioritize other capabilities.¹⁰ The Commission’s proposed minimum performance standards are a solution in search of a problem.

II. THE COMMISSION LACKS STATUTORY AUTHORITY TO MANDATE ANTENNA PERFORMANCE STANDARDS.

Setting aside the question of whether it would be good policy for the Commission to intervene in a competitive market and mandate rigid, inflexible standards that force consumers to pay more for features they do not want or need, the Commission does not have the legal authority to impose minimum performance standards for indoor antennas. Only a single commenter suggested that the Commission actually has the authority it claims under the All Channel Receiver Act (“ACRA”), asserting that the plain language of the statute provides the Commission with the authority to impose minimum performance standards.¹¹

The text of ACRA, however, says nothing whatsoever about the Commission’s authority to mandate performance standards for antennas. In fact, ACRA only provides the Commission with authority to require that television receivers be capable of receiving all broadcast television signals. ACRA does not provide the Commission with authority to regulate minimum

⁹ *Id.* at 17 (“Indeed, such requirements may lead to undesirable form factors (antenna sizes) or costs that are unnecessary for the particular customer’s needs”)

¹⁰ *Id.* at 16 (“Moreover, some consumers may require highly directional over-the-air antennas to receive distant over-the-air signals that are focused from a single (or focused) market location, while others would benefit from a more omni-directional antenna to pick up a variety of over-the-air signals from many different directions.”)

¹¹ Comments of T-Mobile USA, Inc., 16-17, ET Docket No. 10-235 (“Thus, the plain language of the statute supports the Commission’s authority to impose antenna standards.”)

performance standards for antennas that consumers purchase to improve reception on television receivers that are already *capable* of receiving low-VHF signals.

Given that there is nothing in the plain language of ACRA that provides the Commission with the authority it claims, it is absolutely appropriate, and in this case uniquely instructive, to examine the legislative history of ACRA. As RadioShack and CEA noted in their Comments, the legislative history of ACRA makes it perfectly plain that ACRA provides the Commission with *no* authority to set minimum performance standards.¹² In fact, ACRA was only enacted following the deletion of a proposed provision that would have allowed the Commission to set *minimum performance standards*.¹³ The Commission should not attempt to exercise authority Congress expressly determined to withhold from the Commission.

III. THE COMMISSION SHOULD FOCUS ON CONSUMER EDUCATION.

RadioShack agrees with those commenters noting that, if the Commission wishes to aid consumers in choosing antennas that best serve their needs, consumer education is an appropriate approach.¹⁴ While RadioShack does not support mandatory labeling requirements, RadioShack

¹² See CEA Comments at 14 (“As an initial point, the All Channel Receiver Act does not provide the Commission with authority to set minimum performance standards on indoor antennas, as the Commission argues in the *NPRM*. If anything, the legislative history behind the All Channel Receiver Act, clearer than most, specifically limits the Commission’s power.”)

¹³ See *Elec. Indus. Ass’n. Consumer Elec. Group v. FCC*, 636 F.2d 689, 696 (D.C. Cir. 1980), citing S. Rep. No. 1526, 87th Cong., 2d Sess. 22 (1962) (legislative history demonstrates that Congress “specifically rejected a broad grant of power” to the Commission in deleting a proposed provision that would have allowed the Commission to set minimum performance standards.)

¹⁴ See NAB Comments at 22 (“The Commission also should continue to support resources that help consumers understand relevant factors in antenna selection and installation”); CEA Comments at 17 (“Instead of imposing performance standards on indoor antennas, the Commission will best serve the public by making information available that will allow for more effective use of antennas and by encouraging voluntary campaigns by broadcasters and manufacturers that will educate the public on proper antenna use, such as package inserts.”)

does agree that the Commission, as well as manufacturers and retailers, can serve the public interest by educating consumers with respect to antenna performance and use.

Ultimately, the Commission's goal should not be to pick a single technological approach but, rather, to encourage consumers to make educated choices concerning their purchase of an indoor antenna and to allow the market to function in serving those needs. Antenna manufacturers and retailers have every incentive to respond to consumer demand as it evolves – but the Commission should not be in the business of choosing antennas for consumers.

For the foregoing reasons, RadioShack respectfully urges the Commission not to adopt rigid, inflexible standards for television antennas, and instead to allow manufacturers and retailers to continue to serve consumer-needs as defined by consumers themselves.

Respectfully submitted,

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